

BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
GEORGE EGGEN)

For Appellant: George Eggen, in pro. per.

For Respondent: Burl D. Lack, Chief Counsel;
Israel Rogers, Assistant Counsel

O P I N I O N

This appeal is made pursuant to Section 18594 of the Revenue and Taxation Code from the action of the Franchise Tax Board on the protest of George Eggen to a proposed assessment of additional personal income tax in the amount of \$26.64 for the year 1955.

The tax is proposed to be assessed on wages earned in the State of Illinois during a period when Appellant claims he was a resident of such state and Respondent contends he was a resident of California.

Appellant for a good part of his adult life was and now is a resident of California where he has followed the carpenter trade. He has resided for a considerable period of time in a house in Oakland which is owned by him in conjunction with his mother who also resides therein. The major part of his work has been performed in California although on some occasions he has worked outside of the state for periods usually not in excess of six months. One of these periods was in 1955 and is the one in dispute.

The facts concerning this absence from California which are reasonably clear from the rather sketchy record are that:
(1) in 1955 Appellant went to Chicago, Illinois, where he remained for several months during which he worked as a carpenter and earned the wages which are the measure of the additional tax;
(2) while in Illinois he lived in hotels and ate his meals in restaurants; (3) during his absence he retained his interest in the Oakland house and his mother continued to reside there;
(4) he was not registered to vote in either California or Illinois; and (5) he opened a bank account in Illinois.

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Appellant contends that his intent was to become a resident of Illinois but that he returned to California because he did not like the weather.

Section 17014 of the Revenue and Taxation Code defines a resident of this state as:

(a) Every individual who is in this State for other than a temporary or transitory purpose.

(b) Every individual domiciled in this State who is outside the State for a temporary or transitory purpose.

Any individual who is a resident of this State continues to be a resident even though temporarily absent from the State.

Regulations adopted by Respondent provide that a person is a resident of the state with which he has the closest connection (Cal. Admin. Code, Tit. 18, Reg. 17014-17016(b)) and that a resident is taxable upon all of his income regardless of whether derived from sources within or sources without California. (Cal. Admin. Code, Tit. 18, Reg. 17014-17016(a).)

From the facts available to us we are of the opinion that Appellant was out of this state for a temporary or transitory purpose and that the additional tax proposed to be assessed has been properly determined. This is principally because of the facts that: (1) Appellant made no attempt to establish a settled mode of living in Illinois of the sort to which he was accustomed in California; (2) he made no attempt to dispose of or otherwise make changes in his living facilities in California; and (3) the time spent in Illinois was relatively short and appears to have been a part of a continuing course of conduct whereunder Appellant periodically obtained temporary employment outside of California with no thought of permanently moving therefrom.

O R D E R

Pursuant to the views expressed in the opinion of the Board on file in this proceeding, and good cause appearing therefor,

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IT IS HEREBY ORDERED, ADJUDGED AND DECREED, pursuant to Section 18595 of the Revenue and Taxation Code, that the action of the Franchise Tax Board on the protest of George Eggen to a proposed assessment of additional personal income tax in the amount of \$26.64 for the year 1955 be and the same is hereby sustained.

Done at Sacramento, California, this 28th day of May, 1963,
by the State Board of Equalization.

John W. Lynch, Chairman
Geo. R. Reilly, Member
Alan Cranston, Member
Richard Nevins, Member
 , Member

ATTEST: Dixwell L. Pierce, Secretary